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REMARKS

The Office Action dated August 23, 2005 has been received. Reconsideration of the outstanding rejection in the present application is respectfully requested based on the following remarks.

Obviousness Rejection of Claims 1-6, 25, 29 and 36-52

At page 2 of the Office Action, claims 1-6, 25, 29 and 36-52 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over Haartsen (U.S. Patent No. 6,393,007) in view of Hogger (U.S. Patent o. 6,490,262). This rejection is respectfully traversed.

As stated in MPEP § 2143, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Also, as stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Further, as stated in MPEP § 2143.01, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). That is, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). Additionally, as stated in MPEP § 2141.02, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v.*

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Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Finally, if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Independent claim 1 recites the features of a first transceiving unit operable to wirelessly transmit to a second, mobile transceiving unit voice information from a voice network over a first dedicated set of time slots of a plurality of time frames and data information from the data network over a second dedicated set of time slots of the plurality of time frames, wherein the first transceiving unit is further operable to implement a channel comprising the plurality of time frames, wherein a carrier frequency of the channel changes in a pseudo random manner, and wherein each time slot of the first and second dedicated sets of time slots has a fixed time slot position for the plurality of time frames. Independent claim 42 recites similar features of transmitting voice information from a first transceiving unit over a first dedicated set of time slots associated with a first plurality of time frames of a wireless channel, transmitting data information from the first transceiving unit over a second dedicated set of time slots associated with the first plurality of time frames of a wireless channel, changing a transmit frequency of the wireless channel in a pseudo random manner, and wherein each time slot of the first and second dedicated sets of time slots has a fixed time slot position for the plurality of time frames. Independent claims 48 and 52 recite similar features.

With reference to these claimed features, the Office Action states “Haartsen differs from the present application in that [a] time slot hopping scheme together with the frequency hopping scheme is also applied to voice channels to improve interference diversity.” *Office Action*, p. 3. Thus, the Office Action acknowledges that Haartsen fails to disclose or suggest the features of wherein each time slot of the first and second dedicated sets of time slots has a fixed time slot position for the plurality of time frames as recited by claims 1, 42, 48 and 52. In fact, the Office Action acknowledges that Haartsen expressly teaches away from the use of time slots having fixed time slot positions because Haartsen teaches the use of a time slot hopping scheme “to improve interference diversity.” *Id.* (citing *Haartsen*, col. 4, lines 4-14). The Office Action attempts to compensate for the deficiencies in Haartsen with respect to the claimed features by citing Hogger, which the Office Action alleges teaches “pseudo random frequency hopping scheme without time slot hopping scheme for TDMA frames” and cites claim 1 of Hogger in support of this assertion. *Office Action*, p. 3. The Office Action then concludes that “[t]hose of

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skill in the art would have been motivated by Hogger *to incorporate the frequency hopping scheme only* into Haartsen to provide simpler circuitry to the transceiving units, since implementing the time slot hopping together with frequency hopping is much more complicated.” *Id.* (emphasis added). The Applicants respectfully disagree.

As acknowledged by the Office Action, Haartsen expressly teaches the use of both a frequency hopping scheme and a time slot hopping scheme “to improve interference diversity.” Moreover, Haartsen fails to disclose or suggest that using only the frequency hopping scheme without the time slot hopping scheme would be advantageous in any way. Thus, the modification of the system of Haartsen to forgo the use of the time slot hopping scheme disclosed by Haartsen as allegedly suggested by the teachings of Hogger would teach away from the express goal of improved interference diversity sought by Haartsen.

Not only does Haartsen teach away from the modification proposed by the Office Action, neither Haartsen or Hogger provide any teaching, motivation or suggestion for their combination. The Office Action proposes that one of skill in the art would be motivated to combine the teachings of Haartsen and Hogger so as “to provide simpler circuitry within the transceiving units, since implementing the time slot hopping together with the frequency hopping is much more complicated.” *Office Action*, p. 3. However, neither Haartsen nor Hogger teaches that providing “simpler circuitry to the transceiving units” is sought in any manner. Moreover, if providing “simpler circuitry” is the motivation for one of ordinary skill in the art when implementing transceiver units, one of ordinary skill in the art would not be motivated to omit only the time slot hopping scheme of Haartsen because the omission of both of the frequency hopping scheme and the time slot hopping scheme of Haartsen would ultimately provide “simpler circuitry to the transceiving units” than using just the frequency hopping scheme while omitting the time slot hopping scheme as proposed by the Office Action. Accordingly, for the reasons provided above, it is respectfully submitted that there is no motivation to combine the teachings of Haartsen and Hogger to arrive at the particular combinations of features recited by claims 1, 42, 48 and 52. The Office Action therefore fails to establish a prima facie case of obviousness in rejecting claims 1, 42, 48 and 52, as well as claims 2-6, 25, 29, 36-41, 43-47 and 40-51 at least by virtue of their dependency from one of claims 1, 42, 48 or 52.

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Moreover, these dependent claims recite additional, non-obvious features. For example, claims 25 and 29 recite the additional features of wherein a time slot containing data information further comprises a forward error correction code. The Office Action acknowledges that Haartsen does not disclose these features. The Office Action instead asserts that it would have been obvious "to add a forward error correction code to data information for a receiver to correct an error, if any, when the data is received" but the Office Action does not provide any prior art reference supporting this assertion of obviousness. Should this feature be as obvious as alleged by the Office Action, the Office should have no difficulty in producing a prior art reference establishing the obviousness of these features. The Applicants therefore respectfully request that the Office provide such a reference in support of any subsequent rejection of claims 25 and 29.

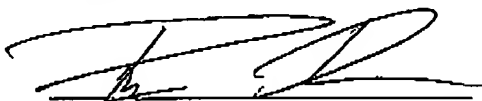
In view of the foregoing, it is respectfully submitted that the obviousness rejection of claims 1-6, 25, 29 and 36-52 is improper at this time. Reconsideration and withdrawal of this rejection therefore is respectfully requested.

Conclusion

The Applicants respectfully submit that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application. The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 01-0365.

Respectfully submitted,

18 October 2005
Date


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